

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 235, "Rebate of Iowa Sales Tax Paid," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV, No. 4, p. 360, on August 22, 2012, as **ARC 0295C**.

Pursuant to 2012 Iowa Acts, Senate File 2329, rule 701—235.2(423) provides for a sanctioned baseball and softball tournament facility and movie site. Under this new rule, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site, as defined in the rule, for sales occurring on or after January 1, 2014, and ending January 1, 2024. Under this rule, those requesting the rebate must complete and file with the Department of Revenue an affidavit for a sanctioned baseball and softball tournament facility and movie site.

This amendment is identical to that published under the Notice of Intended Action.

This amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

After analysis and review of this rule making, the Department has determined the legislation that gives rise to this rule will have a positive impact on jobs by creating new retail and service businesses that can be staffed by Iowans.

This amendment is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.

This amendment will become effective November 21, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendment is adopted.

Adopt the following new rule 701—235.2(423):

701—235.2(423) Sanctioned baseball and softball tournament facility and movie site. Effective July 1, 2012, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site as defined in this rule for sales occurring on or after January 1, 2014, and ending January 1, 2024. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

235.2(1) Definitions. For the purpose of this program the following definitions apply:

"*Change of control*" means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than 51 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

"*Department*" means the department of revenue.

"*Iowa corporation*" means a corporation incorporated under the laws of Iowa where at least 51 percent of the corporation's equity interests are owned by individuals who are residents of Iowa.

"*Owner or operator*" means a for-profit legal entity where at least 51 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.

"*Population*" means the population based upon the 2010 certified federal census.

"*Sanctioned baseball and softball tournament facility and movie site*" or "*facility*" means a baseball and softball tournament complex and tourist destination, which facility is located on a maximum of 279

acres, located inside or within three miles of the city limits of a city with a population of at least 4,000 but not more than 5,500 residents, which city is located in a county with a population of at least 93,000 but not more than 100,000 residents and where the construction on the baseball and softball tournament facility commenced not later than one year following July 1, 2013, and the cost of the construction upon completion was at least \$38 million.

235.2(2) Affidavit by owner or operator. The owner or operator of a baseball and softball tournament facility and movie site seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

Iowa Department of Revenue
Sales Tax Rebate Affidavit

NAME OF AFFIANT	*	AFFIDAVIT FOR SANCTIONED
	*	BASEBALL AND SOFTBALL
ADDRESS OF AFFIANT	*	TOURNAMENT FACILITY AND
	*	MOVIE SITE

The undersigned duly swears that the named Baseball and Softball Tournament Facility and Movie Site complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

1. The facility is sanctioned as a baseball and softball tournament facility and movie site;
2. The sanctioned baseball and softball tournament facility and movie site is located on a maximum of 279 acres of Iowa land;
3. The sanctioned baseball and softball tournament facility and movie site is located in a city with a population, as defined by the rules governing this program, of at least 4,000 but not more than 5,500 residents;
4. The city in which the sanctioned baseball and softball tournament facility and movie site is located is in a county with a population, as defined by the rules governing this program, of at least 93,000 but not more than 100,000 residents;
5. Construction of the sanctioned baseball and softball tournament facility and movie site was commenced on or before July 1, 2013;
6. Cost of construction of the sanctioned baseball and softball tournament facility and movie site upon completion is at least \$38 million; and
7. There has not been a “change of control” as defined in the rules governing this program regarding the legal ownership or operation of the baseball and softball tournament facility and movie site.

The undersigned duly swears that he or she is the owner or operator of the sanctioned baseball and softball tournament facility and movie site or that the undersigned is the authorized representative of the sanctioned baseball and softball tournament facility and movie site and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned baseball and softball tournament facility and movie site has met all of the requirements as contained herein.

Name of Affiant
Position of Affiant

Date

235.2(3) Notification to the department of revenue. The owner or operator of the sanctioned baseball and softball tournament facility and movie site shall provide the department with the identity of all retailers at the facility that will be collecting sales tax and shall keep the information current. The owner or operator of the facility shall notify the department within ten days of the termination of a retailer

from collecting sales tax at the facility. In addition, the owner or operator of the facility shall notify the department within ten days of the start-up of a retailer collecting sales tax at the facility.

235.2(4) Limitations. The sanctioned baseball and softball tournament facility and movie site rebate program applies only to transactions that occur on or after January 1, 2014, but before January 1, 2024, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to the Iowa sales tax rate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to a facility are not authorized for transactions that occur on or after the date of the change of control of the facility. The amount of sales tax revenues transferred from the general fund to the baseball and softball tournament facility and movie site fund is that portion of sales tax receipts remaining in the general fund after the department transfers, in the order prescribed:

- a. Local option sales taxes to those taxing jurisdictions imposing local option taxes;
- b. If the sales tax rate is increased to greater than 6 percent, an amount of sales tax equal to the amount generated by the increase in the tax rate—limited to 3/8 of 1 percent of the sales tax rate that exceeds 6 percent—to the natural resources and outdoor recreation trust fund; and
- c. One-sixth of the remaining sales tax revenues to the secure an advanced vision for education fund.

235.2(5) Termination of rebate program. The rebate program for the sanctioned baseball and softball tournament facility and movie site terminates on the earliest of the following dates:

- a. January 1, 2024; or
- b. Thirty days following the date on which \$16.5 million in total rebates have been provided; or
- c. Thirty days following the date of the change of control of the facility.

235.2(6) Sourcing of sales. Advance ticket and admissions sales shall be considered occurring at the sanctioned baseball and softball tournament facility and movie site regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the facility is located must be imposed on the purchase price of advance ticket and admissions sales.

Other types of sales eligible for rebate under this program include, but are not limited to, sales by vendors and sales at concessions, gift shops, and museums.

235.2(7) Requirements to obtain a rebate of state sales tax by the sanctioned baseball and softball tournament facility and movie site.

- a. The rebate request must be submitted to the department on the authorized department form;
- b. The rebate request form must be filed quarterly with the department and in a timely manner; and
- c. All the information requested on the rebate request form must be completed.

This rule is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.

[Filed 9/26/12, effective 11/21/12]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/17/12.